

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CGG VERITAS LAND, INC.)	File No. 0003313571
)	
Request for Waiver of Section 90.259(a) of the)	
Commission's Rules)	

ORDER ON RECONSIDERATION

Adopted: May 11, 2010

Released: May 12, 2010

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* In this item, we dismiss an untimely petition for reconsideration. In this *Order on Reconsideration*, we dismiss the petition for reconsideration filed on May 19, 2009 by AMTS Consortium LLC (“ACL”), Intelligent Transportation & Monitoring Wireless LLC (“ITL”), Telesaurus VPC LLC (“TVL”) and Skybridge Spectrum Foundation (collectively, “Petitioners”).¹ Petitioners seek reconsideration of an April 16, 2009 *Order* of the Wireless Telecommunications Bureau’s Mobility Division (“Division”), granting the above-captioned application and associated waiver request filed by CGG Veritas Land, Inc. (“Veritas”).² For the reasons discussed below, we dismiss the petition.

2. *Background.* Section 90.259 of the Commission’s Rules authorizes telemetry use of the 217-220 MHz band on a secondary basis,³ but limits the maximum transmitter output power to two watts, and provides that channel bandwidth exceeding fifty kilohertz may be assigned only upon a showing of adequate justification.⁴ Veritas, a provider of seismic geophysical information for oil and gas exploration, sought a waiver in order to permit it to operate in an area of Alaska’s North Slope on 217/219 MHz frequencies with six watts output power on 200-kilohertz and 800-kilohertz channels.⁵ Petitioners objected to Veritas’s application and waiver request.⁶

3. In the *Order*, the Division granted the waiver request, concluding that Veritas justified its request because it only sought authorization for secondary telemetry operations in a remote area where

¹ Petition for Reconsideration, filed May 19, 2009 by AMTS Consortium LLC, Intelligent Transportation & Monitoring Wireless LLC, Telesaurus VPC LLC and Skybridge Spectrum Foundation.

² CGG Veritas Land, Inc., *Order*, 24 FCC Rcd 4641 (WTB MD 2009) (*Order*).

³ See 47 C.F.R. § 90.259(a). Automated Maritime Telecommunications System (AMTS) stations have primary status in the 217/219 MHz portion of the 217-220 MHz band. See Reallocation of the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands, *Notice of Proposed Rule Making*, ET Docket No. 00-221, 15 FCC Rcd 22657, 22662 ¶ 11 (2000).

⁴ 47 C.F.R. § 90.259(a)(4), (8).

⁵ See *Order*, 24 FCC Rcd at 4641 ¶ 3. Veritas requested this waiver in order to use a network of seismic acquisition transmitters manufactured by SERCEL, Inc. (SERCEL).

⁶ Petitioners received notice of the application because Commission staff advised Veritas to afford the relevant AMTS geographic licensees an opportunity to consent to or comment on the waiver request. *Id.* at 4642 n.11. Petitioners also filed a supplement, which the Division dismissed because Petitioners did not explain why the matters raised therein could not have been raised earlier. *Id.* at 4642 n.9.

the primary licensees had no current operations.⁷ The Division also found that Veritas's proposed equipment appeared to pose no greater risk of interference to other users than equipment not requiring a waiver.⁸ Petitioners then sought reconsideration.

4. *Discussion.* The *Order* was released on April 16, 2009. The Veritas application was granted the following day. Petitions for reconsideration are due thirty days from the date of public notice of the final action,⁹ but the due date is extended to the next business day if the thirtieth day falls on a weekend or holiday.¹⁰ Thus, whether counted from release of the *Order* or from grant of the application, a petition for reconsideration was due Monday, May 18, 2009.

5. Petitioners filed their petition for reconsideration electronically, via the Commission's Universal Licensing System, in the early hours of Tuesday, May 19, 2009. The following day, they filed a request that the petition be accepted out of time.¹¹ The request states that while Petitioners were attempting to file the petition electronically at 11:57 p.m. Eastern time on May 18, their internet service provider experienced an outage that lasted until after midnight.¹²

6. In 2002, the Commission dismissed a petition for reconsideration filed untimely by Petitioners' principal due to technical difficulties, and specifically "caution[ed him] and other future petitioners not to wait until the last day of the thirty-day period to file or, in the alternative, to plan ahead to account for unforeseen last-minute difficulties."¹³ The Commission has thus made it clear that Petitioners are not entitled to a waiver of the filing deadline on the grounds that, after waiting until shortly before the deadline to file, they encountered unexpected difficulties.¹⁴ Consequently, we dismiss the petition for reconsideration as untimely.¹⁵

⁷ *Id.* at 4644 ¶¶ 9-10. The Division noted that Veritas sought to conduct seismic geophysical telemetry, which typically is of a temporary nature, with equipment being moved from one location to another as exploration and drilling needs require. *Id.* at 4644 ¶ 11.

⁸ *Id.* at 4643-44 ¶ 9. Specifically, Veritas's technical analysis indicated that the spectral density produced by the SERCEL equipment is no greater than that of compliant equipment, because the higher power is spread over a wider bandwidth. *Id.* at 4644 n.24.

⁹ 47 C.F.R. § 1.106(f).

¹⁰ 47 C.F.R. § 1.4.

¹¹ See Request to Accept Late Filing of Petition for Reconsideration (filed May 20, 2009).

¹² *Id.* at 1.

¹³ See Amendment of the Commission's Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd 6685, 6691 ¶ 12 (2002); see also Regionet Wireless License, LLC, *Memorandum Opinion and Order*, 17 FCC Rcd 21263, 21265 ¶ 6 (2002) (stating, regarding another pleading filed by Petitioners' principal, that "electronic filers who wait until the last minute of the last day of the filing period to submit a pleading should not routinely expect a waiver"); Mobex Network Services, LLC, *Memorandum Opinion and Order*, 25 FCC Rcd 554, 557 n.32 (2010) (*Mobex*) (same, involving a pleading filed by Petitioners ACL, ITL, and TVL).

¹⁴ See also 47 C.F.R. § 1.4(f) ("Applications, attachments and pleadings filed electronically in the Universal Licensing System . . . must be received before midnight on the filing date."); *Mobex*, 25 FCC Rcd at 557 ¶ 7 ("Filings are due on the day that they are due, not at some (unspecified) time the following day.").

¹⁵ Moreover, even if we considered the merits, we would deny the petition. Contrary to Petitioners' assertion, they are not entitled to supplement the record whenever they wish, and the Division was justified in dismissing their supplement on the grounds that Petitioners could have raised those arguments earlier. Moreover, the decision cited in the supplement and again on reconsideration (*Exelon Generation Company, LLC, Order*, 19 FCC Rcd 18078 (WTB PSCID 2004)) is distinguishable, for that applicant sought primary status in the 217-220 MHz band, while Veritas recognizes that it is secondary to AMTS geographic licensees pursuant to Section 90.259. As previously, Petitioners have demonstrated neither that they were entitled to be served with a copy of the application and waiver

7. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by AMTS Consortium LLC, Intelligent Transportation & Monitoring Wireless LLC, Telesaurus VPC LLC and Skybridge Spectrum Foundation on May 19, 2009 IS DISMISSED.

8. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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request, nor that they were prejudiced by the lack of service, given that they received actual notice of the filing. In addition, Petitioners' claim that the *Order* was deficient because no technical analysis was provided overlooks the fact that the Division clearly cited and discussed Veritas's technical explanation of why operation of the SERCEL system posed no greater potential for interference than operation of equipment not requiring a waiver. Finally, Petitioners' contention that Commission staff is prejudiced against them has been addressed elsewhere. *See, e.g.,* Mobex Network Services, LLC, *Memorandum Opinion and Order*, 25 FCC Rcd 3390, 3395-96 ¶ 11 (2010), *recon. pending*; Warren C. Havens, *Order on Reconsideration*, 25 FCC Rcd 511, 513 n.21 (2010), *recon. dismissed, Order on Further Reconsideration*, 25 FCC Rcd 2123 (WTB MD 2010), *recon. pending*.